

BY REPRESENTATIVE ROBIDEAUX AND SENATOR THOMPSON

AN ACT

To amend and reenact Section 3.(C), (G), and (I) and Section 4.(A) and (B)(1) and to enact Section 3.(M) and (N) of Act No. 421 of the 2013 Regular Session of the Legislature, relative to the Louisiana Tax Delinquency Amnesty Act of 2013; to provide relative to the amount of penalties and interest waived during certain amnesty periods; to provide with respect to the taxes eligible for amnesty; to provide for the doubling of penalties under certain circumstances; to prohibit certain forms of payment of delinquent tax, interest, penalty, or fees pursuant to the Amnesty Program; to authorize installment agreements for certain taxes; to provide for certain requirements and limitations for installment agreements; to authorize the procurement of collection services under certain circumstances; to provide with respect to amnesty administration services and for the procurement of such services; to authorize the promulgation of rules; to prohibit the implementation of future amnesty programs for a certain period of time; to provide for the disposition of amnesty collections; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Section 3.(C), (G), and (I) and Section 4.(A) and (B)(1) of Act No. 421 of the 2013 Regular Session of the Legislature are hereby amended and reenacted and Section 3.(M) and (N) of Act No. 421 of the 2013 Regular Session of the Legislature are hereby enacted to read as follows:

* * *

Section 3.

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(C) Notwithstanding the terms or provisions of any other Act or other provisions of law to the contrary, and except as provided in Subsection (B) of this Section, the following taxes are eligible for amnesty:

(1) ~~Taxes due prior to January 1, 2013, for which the department has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2013; or~~ For the 2013 amnesty program: taxes due prior to January 1, 2013, for which the department has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2013.

(2) Taxes for taxable periods that began before January 1, ~~2013~~ 2014; ~~or~~ .

(3) Taxes for which the taxpayer and the department have entered into an agreement to interrupt the running of prescription pursuant to R.S. 47:1580 and said agreement suspends the running of prescription until December 31, ~~2013~~ 2014.

(4) For the 2014 amnesty program: taxes due prior to January 1, 2014, for which the department has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2014.

(5) For the 2015 amnesty program: taxes due prior to January 1, 2015, for which the department has issued an individual or a business proposed assessment, notice of assessment, bill, notice, or demand for payment not later than May 31, 2015.

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(G)~~(1)~~ Amnesty will be granted only for eligible taxes to eligible taxpayers who apply for amnesty during an amnesty period on forms prescribed by the secretary and who pay all of the tax, all fees and costs, if applicable, and any interest due upon filing the amnesty application. Pursuant to the provisions of Subsection (M) of this Section, taxpayers who apply for amnesty by opting to pay the tax and any applicable fees, costs, and interest in installments shall remain eligible to participate in the amnesty program only by making complete and timely payment of the entire amount due under the taxpayer's installment agreement. Taxpayers

1 involved in field audits or litigation shall not be eligible for installment agreements
2 under the amnesty program. The amnesty application for taxpayers involved in field
3 audits or litigation shall include all issues and all eligible periods involved in the
4 audit or litigation. The secretary shall reserve the right to require taxpayers to file
5 tax returns with the amnesty application. Notwithstanding the terms or provisions
6 of any other Act or other provisions of law to the contrary, if the amnesty application
7 is approved during the 2013 amnesty period, the secretary shall waive one-half of the
8 interest and all of the penalties associated with the tax periods for which amnesty is
9 applied. If the amnesty application is approved during the 2014 amnesty period, the
10 secretary shall waive ~~fifteen percent~~ of all of the penalties associated with the tax
11 periods for which amnesty is applied, ~~but no~~ and fifty percent of the interest shall be
12 waived. If the amnesty application is approved during the 2015 amnesty period, the
13 secretary shall waive ~~ten~~ thirty-three percent of all of the penalties associated with
14 the tax periods for which amnesty is applied, ~~but no~~ and seventeen percent of the
15 interest shall be waived. However, any taxpayer who has a final judgment in
16 accordance with R.S. 47:1565 or 1568 rendered against him by a court or who has
17 exhausted all rights to protest taxes owed to the state pursuant to such statutes ninety
18 days prior to either the 2014 or 2015 amnesty period, and who then fails to submit
19 an amnesty application before the end of the applicable amnesty period ninety days
20 prior to which the final judgment was rendered or ninety days prior to which his
21 rights to protest taxes have been exhausted, shall be subject to double penalties. An
22 amnesty payment or application submitted in a properly addressed envelope with
23 sufficient postage delivered by the United States Postal Service is deemed paid or
24 received on the date it is postmarked. An amnesty payment or application delivered
25 by courier or taxpayer is deemed paid or received on the date it is delivered to the
26 department's headquarters or a regional office. ~~No installment agreements will be~~
27 ~~entered into for tax periods that are approved for amnesty.~~ The department shall not
28 accept tax credits as payment of any tax, interest, penalty, or fee paid as a result of
29 participation in the amnesty program.

(2) A taxpayer who disputes a portion of the amount of a delinquent tax assessed by the department may be eligible to apply for amnesty if the taxpayer remits the complete one-time payment of that portion of the tax that is not in dispute, plus applicable interest and penalties, hereinafter referred to as the "compromise amount", to the department prior to the end of the amnesty period for which the taxpayer applies. The secretary shall have thirty days beginning on the first business day after the last day of the amnesty period to determine if the taxpayer shall be granted amnesty based on the compromise amount paid. If the secretary approves the compromise amount paid by the taxpayer, the taxpayer shall be granted amnesty. If the secretary rejects the compromise amount paid by the taxpayer, amnesty shall not be granted and the taxpayer shall be responsible for the full amount of the delinquent tax, penalties, interest, and fees prior to his application for amnesty. Any monies paid to the department as compromised amounts during the amnesty period shall be allocated toward payment of the taxpayer's delinquent tax debt in accordance with rules and regulations which govern such payments in the absence of an amnesty program.

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(I) Amnesty applications shall include a written waiver of all rights, restrictions, and delays for assessing, collecting, or protesting taxes and interest due as set forth in R.S. 47:1562 through 1565 and 1576. The filing of such applications shall make the tax, interest, and penalty immediately due and payable; except when the taxpayer has been authorized by the secretary of the department, after making application on the supplemental form provided by the secretary, to make installment payments of such tax, interest, penalty, and fees. Pursuant to the provisions of Subsection (M) of this Section, a taxpayer's supplemental application seeking authority to make installment payments of a delinquent tax, interest, penalties, and fees shall, upon approval of the secretary, be deemed to enter the taxpayer into an installment agreement with the department. Payments of tax, interest, penalties, and fees shall be subject to the distraint procedure provided for in Title 47 of the Louisiana Revised Statutes of 1950; ineligible for refund, credit, or claim against the

1 state; and ineligible for redetermination under the provisions of R.S. 47:1565(C);
2 however, a taxpayer shall be eligible for a refund or credit if the overpayment arises
3 after the amnesty application is submitted and is attributable to a properly claimed
4 Louisiana net operating loss or attributable to an adjustment made by the Internal
5 Revenue Service to the taxpayer's federal income tax, and the taxpayer provides
6 notice of the adjustment to the secretary within sixty days of receipt of the
7 adjustment from the Internal Revenue Service. A taxpayer who files an application
8 for amnesty retains all administrative and judicial rights of appeal with respect to any
9 additional tax assessed by the department.

10 * * *

11 (M)(1) Installment agreements. A taxpayer's application to make installment
12 payments of a delinquent tax and its interest, penalties, and fees shall, upon approval
13 by the secretary, enter the taxpayer into an installment agreement with the secretary
14 of the department, whereby continuation in the amnesty program is dependent upon
15 complete and timely payments of all installment payments. All installment
16 agreements approved by the secretary shall require the taxpayer to provide a down
17 payment of no less than twenty percent of the total amount of delinquent tax, penalty,
18 interest, and fees owed to the department at the time the installment agreement is
19 approved by the secretary. Additionally, every installment agreement shall include
20 fixed, equal, monthly payments that shall not extend for more than six months.

21 (a) For the 2014 amnesty program, "timely payment" shall mean all
22 installment payments shall be received no later than May 1, 2015.

23 (b) For the 2015 amnesty program, "timely payment" shall mean all
24 installment payments shall be received no later than May 1, 2016.

25 (2) Automated electronic drafts. Applicants seeking to enter into an
26 installment agreement with the department shall provide necessary information for
27 installment payments to be drafted from an account from which the taxpayer is
28 authorized to remit payment. All payments shall be drafted through electronic
29 automated transactions initiated by the department. Taxpayers who cannot enter into

1 an agreement to make payment by way of automated electronic transactions shall not
2 be eligible for an installment agreement with the department.

3 (3)(a) Forfeiture. If for any reason a taxpayer subject to an installment
4 agreement fails to fulfill his obligation under the agreement by remitting the last
5 installment by the first day of May of the amnesty program year to which the
6 agreement applies, no amnesty shall be granted and the installation agreement shall
7 be null and void. All payments remitted to the department during the duration of
8 such void installment agreement shall be allocated in accordance with department
9 rules and regulations as applied in the absence of an amnesty program. The taxpayer
10 shall be obligated to pay the entirety of the delinquent tax, along with all applicable
11 interest, penalties, and fees.

12 (b) A taxpayer who is approved to participate in the amnesty program who
13 is also a party to an existing installment agreement with the department may be
14 eligible to participate in an installment agreement under the amnesty program. Upon
15 approval by the secretary of an installment agreement under the amnesty program,
16 the original installment agreement with the department shall be cancelled in favor
17 of the installment agreement under amnesty which shall be subject to the provisions
18 of this Subsection.

19 (4) Collection of installment agreements. The secretary may procure
20 amnesty program collection services for the administration and collection of
21 installment agreements. The fee for such services shall be in accordance with the
22 fees authorized in R.S. 47:1516.1.

23 (5) Emergency rules. The secretary of the department may promulgate rules
24 and regulations in accordance with the emergency rulemaking authority of the
25 Administrative Procedure Act as provided for in R.S. 49:953(B) as are necessary to
26 implement the provisions of this Act relative to installment agreements. For
27 purposes of qualifying as an emergency under the provisions of the Administrative
28 Procedure Act, necessity of promulgating these rules by emergency rulemaking shall
29 be deemed to meet the definition of imminent peril to the public health, safety, or
30 welfare of the citizens of the state.

1 (N) After conclusion of the amnesty period in 2015, there shall be no new
2 amnesty program implemented by the Department of Revenue before January 1,
3 2025.

4 Section ~~4.A.~~ 4.(A) The secretary shall retain from monies collected under
5 this Act an amount equal to all penalties waived under this Act, an amount equal to
6 the costs for contractual information technology and amnesty program administration
7 services, including, without limitation, marketing, advertising, and public
8 information services, and an amount equal to any collection fees, legal fees, or any
9 other fees the department incurs that are associated with granting amnesty. Such
10 monies shall be designated as self-generated revenues. Notwithstanding any
11 provision of law to the contrary, amnesty program administration services and
12 information technology services, including, without limitation, marketing,
13 advertising, and public information services, to implement amnesty may be acquired
14 using the emergency procurement process. The secretary shall also retain an amount
15 not to exceed two hundred fifty thousand dollars for advertising expenses from
16 monies collected from taxes paid pursuant to this Act.

17 ~~B.(1)~~(B)(1) After satisfaction of the requirements of Subsection A of this
18 Section, all remaining monies collected pursuant to this Act shall be paid into the
19 state treasury. After compliance with the requirements of Article VII, Section 9(B)
20 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund
21 and prior to any monies being placed into the state general fund or any other fund,
22 an amount equal to the remaining collections shall be credited by the state treasurer
23 as follows:

24 (a) For Fiscal Year 2013-2014, the monies shall be credited to a special fund
25 hereby created in the state treasury to be known as the 2013 Amnesty Collections
26 Fund, hereinafter referred to as "fund". The monies in the fund shall be available for
27 appropriation for any public purpose.

28 (b) For Fiscal Year 2014-2015:

29 (i) One hundred million dollars of such monies shall be credited to the fund
30 and shall be available for appropriation for any public purpose.

